

DOCKET NO. PHA 23.501
SERIAL NO. 09/311,128
PATENT

REMARKS

Claims 1, 3-7, 11, and 12 are pending in the application, and were all rejected. All other claims were cancelled..

35 U.S.C. § 102 – Anticipation

Claims 11 and 12 have been rejected as anticipated by Croy *et al.* (USP 6,476,825, hereinafter “Croy”).

Claim 11 requires “wherein a programming of the programmable user interface is facilitated by the user interface code” (emphasis added). Note that this limitation does not state “a programming of the device,” which appears to be what Croy discloses. Nor does claim 11 state “a programming via the programmable user interface,” the language used in the Office Action to describe Croy’s teaching.

Nothing in Croy appears to teach or suggest programming the programmable user interface itself; certainly the passages cited by the Office Action do not support this feature. It appears that Croy’s user interface is static, although different services may be downloaded to be used in the device.

Further, it appears unclear that Croy is prior art to the instant application at all. The filing date of the instant application is May 13, 1999. Note that Croy was filed as a continuation-in-part on November 12, 1999, after the filing date of the instant application, and Croy’s parent case was filed May 13, 1999, the same day as the instant application. As such, Croy’s earliest effective filing date is not BEFORE the filing date of the instant application, and certainly is not before the instant invention was made.

Claim 12 distinguishes over Croy for the same reasons as stated for claim 11.

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The anticipation rejections are traversed.

35 U.S.C. § 103(a) – Obviousness

Claims 1 and 3-7 were rejected as obvious over van Ee et al. (USP 6,208,341, hereinafter “van Ee”) in view of Goldstein (USP 5,410,326, hereinafter “Goldstein”).

The recited method enables a determination of at least one appliance for being user-controlled through the control device, determines code for graphically representing a controllable feature of the appliance on the graphic user interface of the control device and communicates the code to the control device for storage at the control device for enabling user-control of the appliance in response to a subsequent user activation of the control device. The step of determining the code includes accessing an Internet site in dependence upon the determination of the at least one appliance.

Applicants respectfully submit that the amended language of Claim 1 distinguishes over any permissible combination of the teachings of van Ee and Goldstein. In particular, Applicants submit that Goldstein *fails to provide the requisite teachings acknowledged to be missing in van Ee*.

Goldstein is directed to a programmable remote control device, but *fails* to teach or suggest a method that facilitates programming of a control device, that includes the step of “determining code for graphically representing a controllable feature of the appliance on the graphic user interface of the control device”, and in which the step of “determining code” includes accessing an Internet site in dependence upon the determination of the at least one appliance.

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Goldstein merely provides a teaching of the use of communication via a link to a cable TV converter or via a telephone link. More specifically, as recited in Goldstein, "personalizing the device operation for each household can occur either (1) through a bidirectional communications link to a cable television converter which receives programming code from a head end cable facility, or (2) by a telephone coupler which is connected via a telephone link to a programming source" (see col. 3, lines 29-34 and col. 13, lines 46-50, emphasis added)

For at least the foregoing reason, independent Claim 1, as amended herein, is believed patentable over van Ee and Goldstein and reconsideration is respectfully requested.

The Office Action states that "Goldstein discloses a control device that comprises a graphical user interface that accesses the Internet (a remotely connected programming source, column 3, lines 14-28)." It is factually incorrect to state that Goldstein discloses anything about the Internet – it simply does not. In fact, nothing in van Ee or Goldstein teaches, suggests, or even mentions the Internet at all. Claim 1 requires an Internet SITE, and of course there is nothing similar taught or suggested by van Ee or Goldstein, and there is no teaching at all in the van Ee or Goldstein to modify their systems to include accessing Internet sites.

Further, even if the too-generic "remotely connected programming source" were read to include the specific medium of the Internet and a specific source as an Internet site, there is no teaching or suggestion in van Ee or Goldstein that the source is accessed "in dependence upon the determination of the at least one appliance." There is no motivation or suggestion to modify van Ee, Goldstein, or any combination of them to include this limitation.

Therefore, a *prima facie* obviousness rejection has not been made, and all obviousness rejections are traversed.

All rejections stated in the Office Action mailed 02/25/04 have been traversed.

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SUMMARY

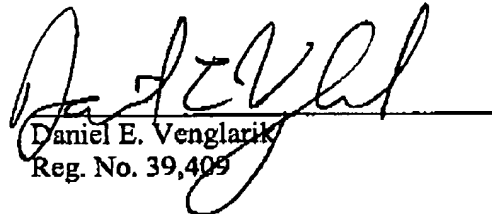
For the reasons given above, the Applicants respectfully request reconsideration and allowance of pending claims and that this Application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this Application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at *dvenglarik@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

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